

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 2 NEW MEXICO HEALTH PROFESSIONS: STUDENT LOAN-FOR-SERVICE ACTS

5.7.2.1 ISSUING AGENCY: New Mexico Higher Education Department (NMHED)
[7/15/1998, 5.7.2.1 NMAC - Rn & A, 5 NMAC 7.2.1, 6/29/2001; A, 5/30/2008]

5.7.2.2 SCOPE: Provisions of 5.7.2 NMAC apply to New Mexico residents that are selected to participate in one of the loan-for-service programs described in this rule. Participants must be pursuing a certification/license in an eligible health profession.
[7/15/1998, 5.7.2.2 NMAC - Rn, 5 NMAC 7.2.2, 6/29/2001; A, 5/30/2008]

5.7.2.3 STATUTORY AUTHORITY: Sections 21-1-26, and 21-22-1 through 21-22C-10 NMSA 1978.
[7/15/1998, 5.7.2.3 NMAC - Rn, 5 NMAC 7.2.3, 6/29/2001]

5.7.2.4 DURATION: Permanent.
[7/15/1998, 5.7.2.4 NMAC - Rn, 5 NMAC 7.2.4, 6/29/2001]

5.7.2.5 EFFECTIVE DATE: July 15, 1998.
[7/15/1998, 5.7.2.5 NMAC - Rn, 5 NMAC 7.2.5, 6/29/2001]

5.7.2.6 OBJECTIVE: The objective and purpose of the New Mexico Health Professions Student Loan-for-Service Acts are to increase the number of health professionals in areas of the state which have experienced shortages of health practitioners, by making educational loans to students seeking certification/licensure in an eligible health profession. The acts require, as a condition of each loan, that the student declare their intent to practice as a health professional within one of the areas of the state designated by the health profession advisory committee, of the New Mexico higher education department, as a health professional shortage area.
[7/15/1998, 5.7.2.6 NMAC - Rn, 5 NMAC 7.2.6, 6/29/2001; A, 5/30/2008; A, 12/11/2018]

5.7.2.7 DEFINITIONS:

A. “Department” means the New Mexico higher education department.
B. “Committee” means the health professions advisory committee of the department.
C. “Designated shortage area” means an area in New Mexico determined by the committee as not being adequately served by eligible health professionals.

D. “Eligible health profession” means:
(1) for the Allied Health Student Loan-for-Service Act, dental hygienist, physical therapy, occupational therapy, speech-language pathology, audiology, pharmacy, nutrition, respiratory care, laboratory technology, radiologic technology, mental health services, emergency medical services, or a licensed or certified health profession as defined by the department;

(2) for the Medical Student Loan-for-Service Act: physicians and physician assistants, including osteopathic physicians and osteopathic physician assistants.

(3) for the Nursing Student Loan-for-Service Act: nurses; and,

(4) for the Osteopathic Medical Student Loan-for-Service Act: osteopathic physicians and osteopathic physician assistants.

E. “Eligible institution” means:

(1) for the Allied Health Student Loan-for-Service Act: an accredited public postsecondary educational institution which provides an eligible allied health program; preference in awarding Allied Health Student Loan-for-Service Act funds shall be to students accepted for enrollment at a New Mexico public postsecondary educational institution;

(2) for the Medical Student Loan-for-Service Act: an accredited school of medicine in the United States; preference in awarding Medical Student Loan-for-Service Act funds shall be to students accepted for enrollment at an accredited New Mexico medical school;

(3) for the Nursing Student Loan-for-Service Act: an accredited New Mexico public postsecondary educational institution which provides a program of nursing; and,

(4) for the Osteopathic Medical Student Loan-for-Service Act: an accredited program of osteopathic education in the United States.

- F.** “**Extenuating circumstances**” means circumstances not within the control of the recipient.
- G.** “**Loan**” means a grant of funds to defray the costs incidental to an eligible health profession education, under a contract between the department and a student, requiring repayment with services or repayment of principal and interest and any fees.
- H.** “**Student**” means a student who is a resident of New Mexico and is enrolled at least half-time in, or has been accepted by an accredited program for one of the eligible health professions, and will be enrolled at least half-time.
- I.** “**Service**” means full-time, on-site practice in an eligible health profession; unless otherwise provided for by the committee;
[7/15/1998, 5.7.2.7 NMAC - Rn, 5 NMAC 7.2.7, 6/29/2001; A, 5/30/2008; A, 12/11/2018]

5.7.2.8 HEALTH PROFESSION ADVISORY COMMITTEE: The health profession advisory committee is created to advise the department on matters relating to the administration of the health professions student loan-for-service acts.

- A.** The committee shall be appointed by the department pursuant to policies and procedures of the department and shall be composed of:
 - (1) a representative of the department of health;
 - (2) a representative of the New Mexico health policy commission;
 - (3) representatives of public post-secondary health and medical training programs;
 - (4) representatives of recruiting and placement organizations;
 - (5) representatives of professional health and medical associations; and
 - (6) other representatives as appointed by the department.
 - B.** The responsibilities of the committee shall include:
 - (1) designate health professional shortage areas of the state;
 - (2) make recommendations to the department on applicants for allied health, medical, osteopathic, and nursing, loan-for-service acts; and,
 - (3) give advice or other assistance to the department as requested.
- [7/15/1998, 5.7.2.8 NMAC - Rn, 5 NMAC 7.2.8, 6/29/2001; A, 5/30/2008]

5.7.2.9 STUDENT ELIGIBILITY: To be eligible for this program, a student must:

- A.** be pursuing an eligible health profession program, as defined in Subsection C in 5.7.2.7 NMAC, and enrolled in or accepted by an eligible public institution as defined in Subsection G in 5.7.2.7 NMAC;
- B.** be enrolled at the time the loan is awarded and disbursed, for at least half-time in a program leading to a eligible health profession degree/certification, at an eligible institution;
- C.** be a citizen of the United States, or a permanent resident alien, and a resident of New Mexico; and
- D.** declare their intent to practice in one of the eligible health professions as outlined in Section 5.7.2.13 NMAC for at least one year within a designated shortage area in New Mexico.
[7/15/1998, 5.7.2.9 NMAC - Rn, 5 NMAC 7.2.9, 6/29/2001]

5.7.2.10 SELECTION OF LOAN RECIPIENTS: Selection shall be based on the following considerations and preferences:

- A.** the ability, character, and qualifications of each applicant; this is to include a review of the applicant’s educational transcripts, letters of recommendation, and references;
- B.** the demonstrated interest of the applicant in serving in a designated shortage area of the state;
- C.** the applicant's lack of resources to pay for their education expenses, as determined by a standardized needs analysis system, and shall be the basis for preference among otherwise eligible students;
- D.** a designated shortage area endorsement of the applicant;
- E.** a designated shortage area funding match of the applicant; and,
- F.** an applicant seeking to obtain a certificate, license, or degree, in a New Mexico certified/accredited program outlined in Subsection C in 5.7.2.7 NMAC, which requires two years or more of study for completion.
[7/15/1998, 5.7.2.10 NMAC - Rn, 5 NMAC 7.2.10, 6/29/2001; A, 5/30/2008]

5.7.2.11 RESPONSIBILITIES OF THE DEPARTMENT:

- A.** develop program guidelines;
- B.** advertise the program;

- C. process applications,
 - D. presenting a list of eligible candidates to the committee;
 - E. and administer the loans, including:
 - (1) disbursing funds;
 - (2) keeping records on borrowers and processing of contracts;
 - (3) administration of and record keeping on loan repayments;
 - (4) record keeping on location and time of service of those student loan recipients who have completed their education and are providing health service in designated shortage area in New Mexico;
 - (5) verification of qualification for forgiveness for service as defined in 5.7.2.13 NMAC;
 - (6) preparing the following information for each of the loan-for-service acts:
 - (a) number of loans granted;
 - (b) names and addresses of borrowers;
 - (c) names of accredited programs attended; and,
 - (d) names and locations of practice of those who have completed their education and have become licensed/certified health practitioners in New Mexico.
- [7/15/1998, 5.7.2.11 NMAC - Rn, 5 NMAC 7.2.11, 6/29/2001; A, 5/30/2008]

5.7.2.12 LOANS: Loans can be made to students to defray expenses incurred in obtaining an eligible health profession education under the following conditions and limitations.

A. The amount is dependent upon the relative need of each student, but may not exceed twenty-five thousand (\$25,000) per year. The department may set lower maximum award amounts based on the level of degree being obtained and other considerations. The exact amount of the loan for which the applicant is eligible will be determined as a result of an analysis of the financial situation of each applicant using a standard needs analysis carried out by the financial aid office of the student's institution.

B. Upon approval of the loan, a contract shall be drawn between the student and the department and signed by the student (for additional contract details see Section 5.7.2.14 NMAC).
[7/15/1998, 5.7.2.12 NMAC - Rn, 5 NMAC 7.2.12, 6/29/2001; A, 5/30/2008]

5.7.2.13 LOAN REPAYMENT AND FORGIVENESS: All loans shall be repaid to the state together with interest or forgiven according to the following:

A. If a loan recipient of the Allied Health, Nursing, Medical, or Osteopathic Student Loan-for-Service Acts completes their professional education and does not serve in a designated shortage area for a period of at least one year, the department shall assess a penalty of up to three times the principal due, plus eighteen percent interest, unless the department finds acceptable extenuating circumstances for why the student cannot serve and comply with the forgiveness provisions outlined in this section.

(1) The full penalty shall apply unless the circumstances reflect that the penalty should be reduced on a prorata basis reasonably reached based upon the degree of control which the recipient has over the decision not to serve. The recipient shall have the burden of proof.

(2) If the department does not find acceptable extenuating circumstances for the student's failure to carry out their declared intent to serve in a designated shortage area in the state, the department shall require immediate repayment of the unpaid principal amount of the loan plus accrued interest owed the state plus the amount of any penalty assessed pursuant to this subsection.

(3) In all other cases, loans will bear interest at seven percent per year.

B. Loans made to students who fail to complete their eligible health profession education shall come due together with interest immediately upon termination of their education. The department, in consultation with the student, shall establish terms of repayment, alternative service, or cancellation terms.

C. The contract shall further provide that immediately upon completion or termination of the student's eligible health profession education, all interest then accrued due shall be capitalized.

D. If the borrower, after completion of their eligible health profession education and any period of internship or residency, serves in one of the designated shortage areas of the state, loan principal and interest may be forgiven according to the following formula:

(1) loan terms of one academic year or less shall require one year of practice in a designated shortage area; upon completion of service, one hundred percent of the principal plus accrued interest shall be forgiven;

(2) loan terms of two academic years shall require one year of practice in a designated shortage area for each academic year of the loan; upon completion of the first year of service, fifty percent of the

principal plus accrued interest shall be forgiven; upon completion of the second year of service, the remainder of the principal plus accrued interest shall be forgiven; and,

(3) for loan terms of three academic years or more, forty percent of the principal plus accrued interest shall be forgiven upon completion of the first year of service in a designated shortage area, thirty percent of the principal plus accrued interest shall be forgiven upon completion of the second year of service and the remainder of the principal plus accrued interest shall be forgiven upon completion of the third year of service.

E. Recipients must serve a complete year of service in order to receive credit for that year. The minimum credit for a year of service shall be established by the department.

F. Subject to applicable statutory limitations, the department may extend or modify the foregoing repayment periods for good cause.

G. In the event it becomes necessary, the department may suspend loan payments using the following forbearance provisions:

(1) If the borrower is willing, but financially unable to make payments under the repayment schedule, the borrower may request forbearance to allow for any of the following:

(a) a short period during which no payments are made, interest would continue to accrue;

(b) an extension of time for making payments, interest would continue to accrue; or
(c) a period during which the borrower makes smaller payments than were originally scheduled, interest would continue to accrue on the unpaid principal.

(2) Forbearance following completion of program, internship, or residency will not be granted for periods extending beyond six months. The granting of a subsequent forbearance must be approved by the designated staff representative of the department.

(3) The borrower must submit a written request accompanied by a financial statement and a consent-waiver for authorization for current employment and address information concerning the borrower, and other information as requested.

(4) Deferral of repayment obligation may be as follows, at the determination of the department:

(a) the borrower is serving up to a maximum of three years as an active duty member of the armed forces of the United States;

(b) the borrower is temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit of a qualified physician;

(c) the borrower is seeking but unable to find full-time employment for a single period not to exceed twelve months;

(d) the borrower is unable to secure employment for a period not to exceed 12 months while caring for a disabled spouse;

(e) the borrower is unable to satisfy the terms of the repayment schedule while seeking but unable to find full-time employment in an eligible health profession, in a designated shortage area, for a single period not to exceed 27 months; or

(f) other extenuating circumstances as provided for under the American Family Leave Act.

H. Loans may be prepaid at any time, subject to the penalty provision set forth in this Section. Payment on a loan not in repayment may be made in any amount. Payments on a matured promissory note shall be in the amounts of and be applied on the principal installments due on such note in the inverse order of the maturities of such installments, unless otherwise agreed.

I. Authorized charges and fees:

(1) Late charges: Borrower may be charged a late charge in the amount of five percent of the installment payment or five dollars, whichever is less, on any payment made later than 10 days after it is due.

(2) Attorney's fees, other charges, and costs: Borrower shall agree to pay all reasonable attorney's fees, and other costs and charges necessary for the collection of any loan amount not paid when due.

J. Borrower has the responsibility to notify the department in advance of any change of address and of any action which necessitates reconsideration of a promissory note (the failure to serve in a designated shortage area, the termination of service in a designated shortage area, or their ceasing to be enrolled in an eligible institution in an eligible health profession program. Borrower's failure to notify the department and to execute a promissory note on request shall cause the full amount of principal and accumulated interest to become due immediately.

[7/15/1998, 5.7.2.13 NMAC - Rn & A, 5 NMAC 7.2.13, 6/29/2001; A, 5/30/2008]

5.7.2.14 CONTRACTS: A contract shall be drawn between each student receiving a loan and the department on behalf of the state of New Mexico. The contract shall:

- A.** provide for the payment by the department of a specified sum as determined in 5.7.2.13 NMAC;
- B.** state that the borrower shall select from the list of designated shortage areas at the time borrower is ready to begin service;
- C.** state that immediately upon completion or termination of the student's eligible health profession education, all interest then accrued shall be capitalized;
- D.** state the conditions of repayment or forgiveness as detailed in 5.7.2.13 NMAC;
- E.** state that the loan shall bear interest at the designated rate per annum from the date of disbursement until paid, make provision for conversion to a payout note as shown in 5.7.2.13 NMAC, and state that interest will be charged on the unpaid balance of the principal only;
- F.** state the legal responsibilities of the borrower and that delinquent loans shall be referred to the department for appropriate action, which may include referral to the office of the attorney general, if deemed necessary;
- G.** state that the borrower's obligations of the contract with the department shall be binding on borrower's estate;
- H.** state that the department may cancel any contract on 30 days written notice for any reasonable and sufficient cause;
- I.** state that in the event the borrower fails to make any payment when due, the entire indebtedness including interest due and accrued thereon shall, at the option of the department, become immediately due and payable; and
- J.** state that jurisdiction and venue shall be proper in Bernalillo or Santa Fe county, New Mexico for purposes of any suit to enforce the contract.

[7/15/1998, 5.7.2.14 NMAC - Rn, 5 NMAC 7.2.14, 6/29/2001; A, 5/30/2008]

5.7.2.15 REPORTS: The department shall submit a report to the governor and the legislature prior to each regular legislative session. The report shall describe the activities during the previous years, including the statistics, and analysis of the progress of the Health Professions Student Loan-for-Service Acts in meeting the health and medical needs of the citizens of the state.

[7/15/1998, 5.7.2.15 NMAC - Rn, 5 NMAC 7.2.15, 6/29/2001; A, 5/30/2008]

History of 5.7.2 NMAC: The material in this part was derived from that previously filed with the State Records Center and Archives under:

CHE Rule 810, Physician Student Loan Program, with filing dates of 2/27/1985, 8/15/1991, 6/30/1994, and 6/27/1996;

CHE Rule 830, Osteopathic Medical Student Loan Program, with filing dates of 2/27/1985, 6/30/1994, and 6/27/1996;

CHE Rule 870, Nursing Student Loan Program, with filing dates of 2/27/1985, 3/8/1990, 9/13/1990, 8/15/1991, and 6/27/1996;

CHE Rule 815, Allied Health Student Loan for Service Program, with filing dates of 6/30/1994 and 6/27/1996; and CHE Rule 800, New Mexico Health Professions Student Loan-For-Service Acts, filed 9/1/1995.